

SA2004RF0007

January 27, 2004

**VIA PERSONAL DELIVERY**

The Honorable Bill Lockyer, Attorney General  
Attn: Tricia Knight, Initiative Coordinator  
1300 I Street  
Sacramento, CA 95814

**RECEIVED**  
JAN 27 2004

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary- Initiative Constitutional Amendment  
"Tribal Fair Share Act of 2004"

Dear Mr. Lockyer:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment "Tribal Fair Share Act of 2004." Enclosed is my check for \$200.00. My residence address is attached.

All inquires relative to this initiative should be directed to me. Thank you for your assistance.

Sincerely,

Cheryl Schmit  
Proponent

Enclosure: Proposed Initiative

FOR US ONLY  
JAN 27 2004  
06:24 PM

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I, Cheryl Schmit, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

\_\_\_\_\_  
Cheryl Schmit, Proponent

Dated: January 27, 2004

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**TRIBAL FAIR SHARE ACT OF 2004**

**Section 1. This Act shall be known as the Tribal Fair Share Act of 2004.**

**Section 2. Findings and purpose.**

The People of the State of California hereby find and declare as follows:

- a. Casino-style gambling exclusively on Indian lands was authorized by the People of California by the enactment of Proposition 1A in March 2000 with the understanding that tribal gaming operations would be limited in scope, confined to existing Indian lands, and would be beneficial to tribal members who were living in poverty.
- b. Since the passage of Proposition 1A giving California tribes a monopoly on casino gaming in the state, tribal gaming operations in California have grown to the point that there are now more than 60 tribal casinos and 60,000 slot machines on tribal lands, with more casinos under construction.
- c. Tribal gaming in California now annually generates more than \$5 billion in gross revenues and more money is gambled in California than in any other state except Nevada.
- d. Over 42,000 Californians are employed at tribal casinos. Because they are employed by tribes, they are not entitled to the same protection of state law as other California workers. Moreover, due to their low wages and lack of health benefits, many are forced to rely on taxpayer-supported health programs.
- e. In other states, many tribal and commercial casinos granted a monopoly on casino gambling pay 25% to 70% of their gross gaming income for the privilege of operating casinos.
- f. There are only approximately 35,000 tribal members in the entire State of California who are eligible to benefit from gambling revenues and fewer than half of these tribal members belong to tribes operating major casinos.
- g. Tribal casino operations have caused extensive off-reservation impacts – such as severe traffic congestion on inadequate roads, noise, air, and water pollution, and increased law enforcement and public safety demands – all of which annually cost local governments hundreds of millions of dollars.
- h. Tribal casinos are not required to pay any significant federal, state or local taxes (such as income, property, or sales tax).

- i. Tribal casinos benefit from programs and infrastructure expenditures by the State and local governments and individual tribal members are entitled to the same public benefits and services as all other Californians.
- j. The State of California and its local governments are currently in a severe fiscal crisis and can no longer afford to subsidize tribal gaming operations.
- k. This measure authorizes the Governor to enter into new or amended tribal gaming compacts under which the Indian tribes may agree to contribute to the State a fair share of the gross revenues derived from their gaming activities in exchange for the continued exclusive right to operate casino-style gaming facilities in the State.
- l. The amount of a tribal fair share should be negotiated between the State of California and the tribes as provided by the federal Indian Gaming Regulatory Act, rather than imposed by one party.

**Section 3. Section 19 of Article IV of the California Constitution is amended to read:**

(h)(1) Notwithstanding subdivision (f)(Ballot Proposition 1A, enacted March 7, 2000), in recognition of the continuing exclusive franchise granted the tribes for casino gambling activities, the tax-exempt status of tribal casinos, and the substantial costs imposed on the State and local governments as a result thereof, the Governor is authorized to seek amendments to any existing compact, and to seek in any compact negotiated after January 1, 2004, the following enforceable terms:

- (a) a requirement that a tribe pay a fair share to the State of California in an amount which takes into account the tribes' exclusive franchise on casino-style gaming and exemption from federal taxation, and is not less than what a California business conducting lawful gaming would pay in state taxes ("tribal fair share"); and
- (b) a requirement that a tribe negotiate directly with any city or county where the tribal casino is located for an enforceable agreement to make payments in lieu of local taxes that are imposed on non-tribal California businesses, and to mitigate any off-reservation impacts caused by the casino, including impacts on other cities and counties significantly affected, and that such mitigation incorporate the policies and purposes of the California Environmental Quality Act; and
- (c) A requirement that a tribe enact enforceable tribal ordinances that both recognize employment rights of its employees that are equivalent to those afforded California workers in non-tribal businesses, including the employees' right to choose an employee organization, and to receive health and welfare benefits.

(2) With respect to the amendment of any existing compact, or the negotiation of any new compact negotiated after January 1, 2004, if a tribe agrees to the provisions of subdivisions (a) through (c) of this subdivision (h), the Governor is authorized to agree to, but not exceed, the following terms:

- (a) For existing compacts, an increase in the number of slot machines that each tribe was authorized to operate on January 1, 2004, but in no case shall a tribe operate more than 3,000 slot machines or more than two casinos.
- (b) For new compacts, a maximum of 3,000 slot machines and not more than two casinos.

(3) If the tribe seeking a new compact after January 1, 2004 does not agree to the terms in subdivision (1) (a) through (c), the Governor is not authorized to negotiate a compact with that tribe for the operation of more than 350 slot machines.

(4) If a tribe with a compact in effect as of January 1, 2004 does not agree to the terms in subdivision (1) (a) through (c), the Governor is not authorized to negotiate any further amendments to that tribe's compact concerning the type of gaming activity permitted, the number of permitted slot machines or banking and/or percentage card games, or any other increase or change to the type or amount of permitted gaming.

#### **Section 4. Inconsistency with other Ballot Measures.**

The provisions of this Act shall be deemed to conflict with and to be inconsistent with any other initiative measure that appears on the same ballot that amends the California Constitution relating to gaming by federally recognized Indian tribes in California. In the event that this Act and another measure that amends the California Constitution relating to gaming by Indian tribes are adopted at the same election, the measure receiving the greater number of affirmative votes shall be given any force or effect.

#### **Section 5. Severability**

If any provision of this Act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of the Act that can be given effect without the invalid or unconstitutional provision or application and to this end the provisions of this Act are severable.